

**Interpretation of the Director  
Under Seattle Municipal Code Title 23**

**Regarding the Use of the  
Property at  
1820 Terry Avenue**

**DPD Interpretation No. 13-009  
(DPD Project No. 3016408)**

**Background**

This interpretation was requested by attorney Ryan Durkan on behalf of Trammell Crow, who proposes a development including a tower over 160 feet tall at 1820 Terry Avenue. The question raised is whether the tower spacing requirements that apply in the zone require a setback from a structure less than 160 feet tall approved for construction on property across the alley in the same block.

**Findings of Fact**

1. The property at 1820 Terry Avenue is in a DMC 340/290-400 zone, within the Denny Triangle Urban Center Village.
2. Earlier this year a development known as the Touchstone Project was approved for property at 1821 Boren Avenue, across the alley in the same zone. This project, as approved, includes separate office and hotel components, each 156 feet in height. The platted alley is 16 feet wide, and dedication of an additional two feet was required, so the Touchstone property is 18 feet from the property at 1820 Terry Avenue. Portions of the Touchstone development will extend to the margin of the alley, as widened by the dedication. A wall of a portion of the Touchstone project, extending to a height of 156 feet, will be 18 feet from the alley lot line of the property at 1820 Terry Avenue.
3. Upper level development standards for certain downtown zones are provided at Seattle Municipal Code (SMC) Section 23.49.058. That section is appended in its entirety to this interpretation, and incorporated as a finding of fact.
4. Introductory language in Section 23.49.058 defines what is meant as a “tower” for purposes of that section. Among other things, “a portion of a structure . . . in which . . . all gross floor area in each story is horizontally contiguous, and which portion . . . is above a height of 85 feet in a structure that has any nonresidential use above a height of 65 feet” qualifies as a tower.

5. For purposes of the tower separation standards, subsection 23.49.058.E.7 says that a tower is considered to be “existing” if it is either physically present or has received a Master Use Permit approval, including Design Review, that has not expired.
6. For property in a downtown zone, “block” is defined at Section 23.84A.004 as “the area bounded by street lot lines.” Two properties separated by an alley rather than a street are within the same block, based on this definition.
7. One adopted Comprehensive Plan policy, DT-UDP6, bears on upper-level development standards for Downtown zones, but it does not specifically address tower spacing, or the height of structures that should be subject to tower spacing requirements:

DT-UDP6    Employ development standards that guide the form and arrangement of large buildings to reduce shadow and wind impacts at the street level, promote a human scale, and maintain a strong physical relationship with the pedestrian environment. In areas where consistency of building form is important to maintaining an identifiable character and function, regulate building bulk to integrate new and existing development. Limit the bulk of tall buildings in residential areas to provide for light, air and views at street level and reduce the perceived scale of the buildings.

Vary development standards to reduce impacts of large-scale buildings by district consistent with the desired scale and development pattern in the area.

## **Conclusions**

1. The office and hotel components of the approved Touchstone Project are “existing towers” within the meaning of Section 23.49.058.
2. The exceptions provided in Section 23.49.058.E.1 do not extend to any tower spacing requirements that might apply between the Touchstone Project and the proposed development: The properties are within the same block, as defined, and within the same zone, and the Touchstone project was approved pursuant to Land Use Code provisions in effect after the effective date of Ordinance 122054.
3. Read out of context, subsection 23.49.058.E.4 would suggest that a new tower over 160 feet tall would have to provide a 60 foot separation from any portions of the towers that are a part of the Touchstone Project above the 125-foot level, even though the Touchstone towers are less than 160 feet in height. However, several factors point to a different conclusion. First and foremost, the introductory language of subsection E indicates that the tower spacing requirements in that subsection are for all structures over 160 feet in height in specified DMC zones. This may reasonably be construed as meaning that spacing is required between two towers only if both of them exceed 160 feet in height.
4. The position that tower spacing standards disregard towers less than 160 feet in height is consistent with another development standard associated with towers: Under subsection 23.49.058.D, limits on residential floor area per story apply only to towers with residential floor area above the 160-foot level. A residential tower that is less than 160 feet tall would not be subject to this standard. This standard and the tower separation requirement appear to be intended to address the same impact: upper-level bulk of structures with towers.

5. A contrary conclusion, that new towers over 160 feet tall must be separated from existing towers under 160 feet tall, would lead to an anomalous result: If the shorter tower were built first, the taller tower would have to be 60 feet away, but if the taller tower were built first, the shorter tower could then be built without providing that separation. An identical series of developments would be either permitted or prohibited depending on the order in which they were approved or built. We can think of no policy basis for this disparity.

**Decision**

A tower over 160 feet in height built on the property at 1820 Terry Avenue would not be required to provide 60 feet of separation from the approved Touchstone Project structure across the alley at 1821 Boren Avenue

Entered this 12<sup>th</sup> day of December, 2013.

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(signature on file)

Andrew S. McKim

Land Use Planner – Supervisor